

while the trial lawyers were awarded almost \$4 million.

Let me conclude by making a point that part of the confusion is due to objections by the AFL-CIO. Even before the final rule was made public, they were criticizing it, producing TV advertisements, misrepresenting the effect of the new rule. This is especially distressing given the fact—I know this personally from the Secretary of Labor, who had spent untold numbers of hours working on this—it was their intention to try to take in all of the criticisms and comments and blend them into a rule that made sense for workers. She did this, and then to have it attacked before it is finalized, with misrepresentations, is very unfair.

Prior to drafting a rule, the Department of Labor held over 40 stakeholder meetings with 50 different interested groups, including 16 different unions, and invited 80 groups to participate in these so-called stakeholder meetings. It was not as if this were done without the input of people clearly interested in it.

The amendment that is in order when we take up the bill is the Harkin amendment. It is unclear precisely what the wording of the amendment will be, but obviously the intent is to preclude the regulations from fully taking effect.

I urge my colleagues, after they review that language, to quickly dispose of the amendment so we can move on to the important business of passing the underlying JOBS bill. As we know, the only group of employees that is not going to be guaranteed overtime under the new regulations is those making over \$100,000 or more. The theory there is they are in a position to negotiate their own salary.

Just to conclude, if this new rule is not allowed to go into effect, the biggest winners under the new rule, which are the low-income workers, will be the biggest losers. We need to put this into effect, clear up the confusion, and create the specific categories that are guaranteed overtime pay or these people are going to lose. The police, the firefighters, the lower income people, the blue collar workers are not going to be assured overtime pay. Remember, it only previously would guarantee anybody with \$8,000 or less the overtime pay they should be entitled to.

The effect of the Harkin amendment will be to hurt workers, not to help them. It is my hope that, again, we can quickly dispense with the Harkin amendment, defeat that amendment, support the regulations, the new rules that have been adopted by the Department of Labor, let them go into effect, and see how they work; in the meantime, move on with S. 1637, the underlying legislation, the purpose of which is to finally get our manufacturing industry back on even par with our competitors, particularly in the European market. That is legislation we have to pass because of the tariffs that are being imposed each month until we comply with the ruling of the WTO.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent I be allowed to speak for 15 minutes, and I include in that request Senator REID of Nevada who has asked to follow me for an additional 15 minutes.

Mr. KYL. Mr. President, reserving the right to object, there is a division of time between the two sides. Could I suggest that regarding the remarks of the Senator from Florida with the Senator from Nevada, that they get together and figure out the time to speak if it will not be under leader time? Is that acceptable?

I will object to the request and try to talk to the Senator.

The ACTING PRESIDENT pro tempore. The objection is heard.

The Senator from Florida.

Mr. NELSON of Florida. Is the unanimous consent request that I made that I be allowed to speak for 15 minutes, is that acceptable?

The ACTING PRESIDENT pro tempore. It has been objected to.

Mr. NELSON of Florida. I ask unanimous consent that I be allowed to speak for 15 minutes, and if there is a Member on the other side of the aisle who would like to speak for 15 minutes, that they be allowed to do so, as well.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### THE POLARIZED SENATE

Mr. NELSON of Florida. Mr. President, that is an interesting segue into what I wanted to talk about, the polarized nature today of the Senate.

At times, this Senate has become so partisan, and increasingly so now, that it is in gridlock. There seems to be a playing out of "gotcha" politics that has poisoned the atmosphere in Washington, DC, so that it is hard to get the people's business done.

When I had the privilege of coming 4 years ago to the Senate, I had read the histories of the great leaders of this body and the extraordinary consensus and bipartisanship, that they would reach out and bring people together in order to form a consensus that could help the Nation govern itself. We find we have exactly the opposite happening in the Senate.

At the same time, what we find happening—under the Constitution, the separation of powers are a check and a balance against each other. That is beginning to erode. Instead, what we see is the power, instead of being equally divided and balanced between the judicial, the legislative, and the executive branches, we find in the executive branch almost an attitude that the legislative branch should become an appendage of what the executive branch wants. If that trend continues, the Constitution is not going to work as it was intended to work.

We find in the histories of this great body, when we have read about those

great leaders, even within our lifetime—Everett Dirksen, Lyndon Johnson, Mike Mansfield, and Bob Dole—they reached out and built bipartisan consensus. They were partisan when they needed to be, and yet they knew the way this body operates. One cannot break a filibuster except by 60 votes now; it used to be two-thirds. We have to build consensus, and we have to build it from the political center by reaching out and bringing people together.

The sharpness of this poisoned atmosphere of excessive partisanship and excessive ideological rigidity has made it very difficult for this Government to function. As a matter of fact, we read the articles recently in major periodicals where it seems ideology is lining up in one party or another, almost as if that is the decision point, the choice, for America to make.

But America has always yearned for another way and that was using the best of our democratic principles through the cross currents of ideas, through the intercourse of discussion, through the heat of debate, for ideas and consensus to emerge upon which to govern this wonderful, broad, beautiful, powerful, and very diverse country. Until we do that, we are going to continue to have a problem of gridlock.

There is something I can do about it by the way I conduct myself individually, day in and day out—when I make mistakes, own up to those mistakes and apologize to the people who would be offended by those mistakes in the interest of comity and consensus building. That is how this Senator has tried to conduct himself, failed as I may be.

That is how I will try to continue to conduct myself and hope I am joined by other Senators in that—through the way you conduct yourself, reaching out in the spirit of comity and personal friendship, and with a sight set on what is good for the Nation. Partisanship prevents us from building consensus in order to run this wonderful country we are privileged to serve and represent.

Mr. President, that is what has been on my heart.

#### THE GAO MISSILE DEFENSE REPORT

Mr. NELSON of Florida. Mr. President, I came to the floor to discuss a topic we will be taking up in the Senate Armed Services Committee later this week as we start to grapple with the authorization bill for the Defense Department—the question of missile defense.

This topic is timely for a number of reasons. First of all, the administration plans to deploy a "rudimentary" missile defense system this September, despite the fact it has not been proven to work. The Armed Services Committee begins consideration of this DOD fiscal year 2005 budget request, and the Pentagon has requested \$10 billion for missile defense systems in 2005,

so it is timely to talk about it right now.

Also, it is timely to talk about this issue because the General Accounting Office has released a report exhaustively reviewing major missile defense programs—with interesting and useful findings, if we will listen to those findings.

Let's look at that GAO report. The report made some very telling observations. Among them was that the missile defense to be deployed in September simply will not be proven yet, because it hasn't been tested against realistic targets. The GAO recommends that realistic operational tests should be conducted on the missile defense system, which many of us have been saying. How in the world can you deploy something that has not been developed and tested?

The GAO recommends we establish clear and firm missile defense goals. I don't see how we can operate and manage a complex, expensive program like this without goals. The report also took a hard, unbiased look at what progress was being made on these missile defense programs. The GAO spent close to a year doing research going beyond the rhetoric to understand what was going on scientifically and fiscally among these complex programs.

What did the GAO find? Well, they found some major problems, problems that should concern all of us who support a true working missile defense for our homeland. I want to repeat that—problems that concern those of us who truly support a working missile defense program for our homeland.

The GAO found, for example, the prime contractors for 2 of the missile defense programs had cost overruns totaling almost \$400 million during fiscal year 2003 alone.

The GAO found the first increment of missile defense to be deployed in September is going to cost a billion dollars more than the Pentagon thought it would cost a year ago. That is a billion dollars of cost growth in a single year. I want this program to be successful, and I also want it to be fiscally responsible.

The GAO also found the airborne laser program is more than a year behind schedule and projected to go over budget between a half billion dollars and a billion dollars. Let's look at that airborne laser program for a moment. It is a fascinating technology, using a laser cannon mounted on a 747 aircraft to shoot down missiles while they are rising in the boost phase of an ICBM flight.

In March 2003, only a year ago, during the Senate Armed Services Committee hearing on missile defense, I asked the Lieutenant General Kadish, the Director of the Missile Defense Agency, about the airborne laser. He told me it was going to be working within a year. Well, we know now—not from him, but from the GAO report—that at the time of the hearing last year, the airborne laser program was

already significantly behind schedule and had more than \$100 million in cost overruns a year ago when I asked the question in the Armed Services Committee. But they didn't tell us that.

According to the GAO, just about everything that can go wrong with this program has gone wrong. General Kadish did not tell us that a year ago. The report says:

Numerous and continuing issues have caused the [program] to slip, including supply, quality, and technical problems.

I continue the quote:

For example, specialized valves have been recalled twice, laser fluid management software has been delayed due to inadequate definition of requirements, and improperly cleaned plumbing and material issues have required over 3,000 hours of unplanned work. In addition, delays in hardware delivery occurred in almost every month of fiscal year 2003.

Why didn't they tell us that last year? It is, again, symptomatic of the executive branch not deferring to the proper balance of powers as envisioned by the Constitution. Instead, they are asking the legislative branch to do its bidding. This has to stop for the sake of the balance of powers of this country.

Even as these problems were occurring with the airborne laser, more money was pouring into the program. The Missile Defense Agency spent about a billion dollars on the airborne laser in 2002 and 2003, and the administration has asked for another half billion dollars in fiscal year 2005 for this same program.

The Pentagon has not been forthcoming with this sort of information. If it weren't for this GAO report, it is not likely the Congress would understand how serious the problems are with this airborne laser program. I wish it were not so, because wouldn't it be good for America if we suddenly had an airborne laser that could shoot down an ascending rocket heading for an American target?

The airborne laser program is not the only surprise in the GAO report. The report reveals computer programs needed for Navy ships to work with the administration's missile defense system won't be tested adequately prior to the planned September deployment of the system. Since these ships are needed to protect Hawaii from a missile launch, Hawaii is now unprotected. That same report reveals major delays with the administration's missile defense plans. It says:

Flight tests leading up to the [deployment] have slipped [over] 10 months, largely as a consequence of delays in [missile defense] interceptor development and delivery. Accordingly, the test schedule leading up to the September [deployment] has been severely compressed, limiting [the] opportunity to characterize [the system's] performance prior to the initial fielding.

The report goes on:

The production and delivery of all 20 interceptors by the end of [December 2005] is uncertain—contractors have not demonstrated

that they can meet the increased production rate.

Given the reality of the technical problems, the schedule delays, and the lack of operational testing, can we justify to the American people spending hundreds of millions of dollars in 2005 to continue to buy more missile defense interceptors than we already have?

I want them to be successful. Let's make sure what we have is going to, in fact, work because the GAO report reveals many of the administration's missile defense programs are in serious trouble with major cost overruns, schedule delays, and inadequate testing. Even to the most enthusiastic supporters of missile defense among us, it should be clear that technology is not proving itself as fast as we had hoped. Given the fact a missile attack against the U.S. is probably lower on the list in terms of probability than other attacks, and given what is going on right now in the war in Iraq and Afghanistan, I think it is clear we need to look carefully and objectively at this missile defense budget and see if we should not spend some of this money on making sure we get it right through the development and testing, and some of that money for our soldiers and marines in battle right now so they can fight and win.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, how much time is remaining for morning business on our side?

The ACTING PRESIDENT pro tempore. There are 15 minutes remaining on the Republican side.

Mr. ALEXANDER. I ask unanimous consent to speak for up to 15 minutes in morning business, and I request that the Chair let me know when there are 2 minutes remaining.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. ALEXANDER. I thank the Chair.

#### TRIBUTE TO MARVIN RUNYON

Mr. ALEXANDER. Mr. President, I have three topics I wish to speak about today. The first is about Marvin Runyon. Marvin Runyon is a man known to almost all Tennesseans. He died last night. He had a remarkable career.

Marvin Runyon and his Nissan team brought the automobile industry to Tennessee, creating jobs and better lives for tens of thousands of families. They built from scratch the largest and most efficient car and truck plant in North America.

For an encore, Marvin Runyon became chairman of the Tennessee Valley Authority and stabilized TVA rates. And for a double encore, he became the Postmaster General of the United States, and in the year he left, if I am not mistaken, the Post Office made a profit. It is rare that our country has produced a better chief executive officer. I am certain Tennessee has